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HOUSE BILL 322

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO MUNICIPALITIES; AMENDING THE SMALL CITIES  
ASSISTANCE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-37A-1 NMSA 1978 (being Laws 1979,  
Chapter 284, Section 1) is amended to read:

"3-37A-1. SHORT TITLE. -- ~~[Sections 1 through 3 of this  
act]~~ Chapter 3, Article 37A NMSA 1978 may be cited as the  
"Small Cities Assistance Act". "

Section 2. Section 3-37A-2 NMSA 1978 (being Laws 1979,  
Chapter 284, Section 2, as amended) is amended to read:

"3-37A-2. DEFINITIONS. -- As used in the Small Cities  
Assistance Act:

A. "municipality" means ~~[any]~~ an incorporated city,  
town or village, whether incorporated under general act,

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1 special act or special charter, and incorporated counties and  
2 H-class counties;

3 B. "municipal share" means one and thirty-five one-  
4 hundredths percent of the taxable gross receipts as defined in  
5 the Gross Receipts and Compensating Tax Act reported annually  
6 for each municipality to the taxation and revenue department  
7 during a twelve-month period ending June 30;

8 C. "total municipal share" means the sum of all  
9 municipal shares;

10 D. "statewide per capita average" means the  
11 quotient of the total municipal share divided by the total  
12 [~~statewide municipal~~] population in all municipalities;

13 E. "municipal per capita average" means the  
14 quotient of the municipal share divided by the municipality's  
15 population;

16 F. "population" means the most recent official  
17 census or estimate determined by the bureau of the census or,  
18 if neither is available, "population" means an estimate as  
19 determined by the local government division of the department  
20 of finance and administration;

21 G. "local tax effort" means the amount produced by  
22 a one-fourth of one percent municipal gross receipts tax in the  
23 previous fiscal year;

24 H. "qualifying municipality" means a municipality  
25 with a population of less than ten thousand that has enacted on

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1 or before the last day of the preceding fiscal year an  
2 ordinance or ordinances imposing a municipal gross receipts tax  
3 pursuant to Section 7-19D-9 NMSA 1978 at a rate of one-fourth  
4 of one percent or more; ~~and~~

5 I. "enacted" means adopted by a majority of the  
6 members of the governing body of the municipality pursuant to  
7 Section 7-19D-9 NMSA 1978 and:

8 (1) for which no election has been called in  
9 the manner and within the time provided by Section 7-19D-9 NMSA  
10 1978; or

11 (2) ~~which~~ that has been approved by a  
12 majority of the registered voters voting on the question  
13 pursuant to Section 7-19D-9 NMSA 1978; and

14 J. "minimum amount" means an amount equal to  
15 thirty-five thousand dollars (\$35,000)."

16 Section 3. Section 3-37A-3 NMSA 1978 (being Laws 1979,  
17 Chapter 284, Section 3, as amended) is amended to read:

18 "3-37A-3. SMALL CITIES ASSISTANCE FUND-- DISTRIBUTION. --

19 A. The "small cities assistance fund" is created  
20 within the state treasury.

21 B. On or before January 31, 2004 and on or before  
22 January 31 of each subsequent year, the local government  
23 division of the department of finance and administration shall  
24 certify to the taxation and revenue department the population  
25 of each municipality in the state.

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1 C. On or before ~~[June 10]~~ the last day of February  
2 of 2004 and of each subsequent year, the taxation and revenue  
3 department shall compute the ~~[distribution share of]~~ amount to  
4 be distributed to each qualifying municipality as follows.

5 (1) The department first shall compute a  
6 distribution share for each qualifying municipality. The  
7 distribution share shall be an amount equal to the product of  
8 the qualifying municipality's population multiplied by the  
9 difference between the statewide per capita average and the  
10 municipal per capita average less the local tax effort of the  
11 qualifying municipality. ~~[provided that the distribution share~~  
12 ~~shall not exceed fifty thousand dollars (\$50,000) if the~~  
13 ~~qualifying municipality has a population of five thousand or~~  
14 ~~less and thirty-five thousand dollars (\$35,000) if the~~  
15 ~~qualifying municipality has a population of more than five~~  
16 ~~thousand but less than ten thousand; and provided that for any~~  
17 ~~municipality with a population of less than ten thousand which~~  
18 ~~does not qualify for a distribution or which qualifies for a~~  
19 ~~distribution of less than the minimum amount, the distribution~~  
20 ~~share shall be the minimum amount; and provided further that if~~  
21 ~~the balance in the small cities assistance fund on the~~  
22 ~~preceding May 30 is less than the sum of the distribution~~  
23 ~~shares calculated pursuant to Subsection C of this section, the~~  
24 ~~taxation and revenue department shall reduce the distribution~~  
25 ~~share of each municipality whose distribution share is in~~

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1 ~~excess of the minimum amount in an amount calculated according~~  
2 ~~to the following formula:~~

3 ~~municipal distribution share in~~  
4 ~~$$\frac{\text{excess of the minimum amount}}{\text{sum of municipal distribution shares}}$$~~ X ~~deficiency in fund~~  
5 ~~in excess of the minimum amount~~

6  
7 ~~so long as no municipality's distribution share is reduced~~  
8 ~~below the minimum amount, and until each municipality's~~  
9 ~~distribution share is reduced to the minimum amount, if~~  
10 ~~necessary; and provided further that if the sum of the~~  
11 ~~distribution shares when each share is reduced to the minimum~~  
12 ~~amount is still in excess of the balance in the small cities~~  
13 ~~assistance fund on the preceding May 30, the taxation and~~  
14 ~~revenue department shall reduce each municipality's minimum~~  
15 ~~amount distribution share by a percentage equal to a percentage~~  
16 ~~computed by dividing the amount by which the fund is~~  
17 ~~insufficient by the sum of all the distribution shares. The~~  
18 ~~taxation and revenue department shall certify the amount of the~~  
19 ~~distribution shares to the state treasurer.]~~

20 (2) In 2004 and subsequent years, the balance  
21 in the small cities assistance fund in February immediately  
22 after the distribution to the fund pursuant to Section 7-1-6.2  
23 NMSA 1978 for the preceding January will be divided by the  
24 number of qualifying municipalities. The quotient will be  
25 rounded down to the nearest dollar and may be cited as the

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1 "target amount".

2 (3) If the target amount determined in  
3 Paragraph (2) of this subsection is less than or equal to the  
4 minimum amount, the target amount is the amount to be  
5 distributed to each qualifying municipality.

6 (4) If the target amount exceeds the minimum  
7 amount, the amount to be distributed to all qualifying  
8 municipalities whose distribution share equals or is less than  
9 the minimum amount shall equal the minimum amount. The sum to  
10 be distributed to such municipalities shall be subtracted from  
11 the amount in the fund. The target amount then shall be  
12 increased by dividing the balance remaining in the fund by the  
13 number of remaining qualifying municipalities. The amount to  
14 be distributed to each remaining qualifying municipality shall  
15 equal the lesser of the municipality's distribution share or  
16 the increased target amount. If the distribution share of one  
17 or more of these remaining qualifying municipalities is less  
18 than the increased target amount, the balance of the fund is to  
19 be further reduced by the amount necessary to provide for a  
20 distribution to those municipalities of their distribution  
21 shares. The target amount is to be increased again by dividing  
22 the recomputed fund balance by the number of qualifying  
23 municipalities not yet provided for. Successive iterations of  
24 the process to increase the target amount shall occur until no  
25 remaining municipality's distribution share is less than the

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1 increased target amount.

2 D. The state treasurer shall distribute from the  
3 small cities assistance fund on or before ~~[June 15]~~ March 1,  
4 2004 and March 1 of each subsequent year to each qualifying  
5 municipality the amount certified by the taxation and revenue  
6 department for each qualifying municipality for the ~~[period~~  
7 ~~ending May 30 of the preceding]~~ year.

8 ~~[E. Immediately after distribution to~~  
9 ~~municipalities from the small cities assistance fund but no~~  
10 ~~later than June 30 of each year, the unexpended or unencumbered~~  
11 ~~balance in the small cities assistance fund remaining after the~~  
12 ~~distribution to the qualifying municipalities shall revert to~~  
13 ~~the general fund.]~~

14 ~~F.]~~ E. Funds distributed ~~[under]~~ in accordance with  
15 this section shall be placed in the general fund of the  
16 qualifying municipalities receiving distributions.

17 ~~[G. As used in this section, "minimum amount"~~  
18 ~~means:~~

19 ~~(1) for a municipality with a population of~~  
20 ~~five thousand or less, thirty thousand dollars (\$30,000); and~~

21 ~~(2) for a municipality with a population of~~  
22 ~~more than five thousand but less than ten thousand, twenty-five~~  
23 ~~thousand dollars (\$25,000).]~~"

24 Section 4. TEMPORARY PROVISION. -- The distribution to  
25 municipalities pursuant to Section 3-37A-3 NMSA 1978 for 2003

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1 shall be made in accordance with the provisions of Section  
2 3-37A-3 NMSA 1978 in effect immediately prior to the effective  
3 date of this act; provided, however, that the reversion to the  
4 general fund for fiscal year 2003 shall be limited as follows:

5 A. if the distribution is made on or before March  
6 1, 2003, the reversion shall not exceed the amount remaining in  
7 the small cities assistance fund after the distribution for  
8 fiscal year 2003; or

9 B. if the distribution is made after March 1, 2003,  
10 the reversion shall not exceed an amount equal to the amount  
11 remaining in the small cities assistance fund as of February  
12 28, 2003 less the amount distributed.